



OFFICE OF THE CITY CLERK

REPORT

REPORT TO THE COMMITTEE ON RULES, FINANCE
AND INTERGOVERNMENTAL RELATIONS

DATE: NOVEMBER 5, 1997

REPORT NO: 97-05

SUBJECT: PROPOSED AMENDMENTS TO THE SAN DIEGO MUNICIPAL
ADVOCATES (MUNICIPAL LOBBYING) ORDINANCE

ISSUE

The Registration of Municipal Advocates Ordinance (Chapter II, Article 9, Division 1 of the San Diego Municipal Code) was first adopted in August 1973. The ordinance has remained substantially unchanged since that time, with the exception of an amendment to one section in 1979. Because of ongoing concerns about the efficacy of the ordinance, the Rules Committee asked the City Clerk and City Attorney to review and revise it.

RECOMMENDATION

- A. Support the amendments proposed; and
- B. Provide direction to the City Clerk and the City Attorney on the policy issues presented to the Committee for its consideration.

DISCUSSION

Throughout the years it has become apparent to the Clerk and to enforcement authorities that clarification of the Municipal Advocates Ordinance is needed in order to ensure compliance. Of particular concern has been the need to clarify registration and

reporting criteria for advocates, and to establish enforceable penalties for advocates who violate the requirements of the ordinance.

In response to direction from the Rules Committee to review and re-draft the ordinance, a Municipal Lobbying Ordinance Task Force was formed to analyze it for needed changes. In addition to representatives from the City Clerk and City Attorney's offices, the Task Force included representatives from the offices of the District Attorney, County Counsel and the Registrar of Voters. The Task Force has reviewed the existing ordinance extensively.

In August 1996, the Task Force sent a draft lobbying ordinance to numerous governmental entities and local organizations, and also to over twenty (20) local lobbyists, for their feedback. Many written responses were received, and over twenty-five people attended our Workshop for Interested Parties. After consideration of the input, and following the passage of Proposition 208 in November 1996, many revisions have been made to the earlier draft. The revised draft contains what the Task Force considers to be the key elements of a new Municipal Lobbying Ordinance. These provisions are discussed below.

I. PROPOSED AMENDMENTS

Title of Ordinance

The title of the ordinance is changed from "Registration of Municipal Advocates" to "Municipal Lobbying Ordinance."

Definitions

Many terms in the ordinance are changed to more accurately reflect the meaning intended.

In the proposed ordinance **Lobbying or Lobbying Activities** are defined as direct communication with a city official for the purpose of attempting to influence legislative action. The definition also includes related activities such as monitoring legislative action the lobbyist is seeking to influence, preparing testimony, attending hearings, and conferring with clients.

A **Lobbyist** is defined as an individual who is paid to engage in lobbying or lobbying activities with any city official for the purpose of influencing legislative action on behalf of any other person.

Direct Communication includes talking to or corresponding with a city official, but does not include appearing as a speaker or providing written statements which become part of the record of a public hearing.

Legislative Action includes the drafting, introduction, consideration, modification, adoption or defeat of any ordinance, resolution, amendment, report, or nomination by the Mayor, City Council, a Council Committee, City Board, or any City Official acting in his or her official capacity. **Legislative Action** does not include requests for advice or interpretation of laws or regulations, ministerial actions, or actions relating to collective bargaining agreements between the City and a recognized employee organization, or a proceeding before the Civil Service Commission.

City Official is defined to include elected or appointed City officeholders, including any City officeholder elected but not yet sworn in, City Board Members, City employees, and consultants required to file statements of economic interest pursuant to any conflict of interest code adopted by the City Council.

Registration Requirements

The proposed ordinance requires paid lobbyists to register within ten calendar days of qualifying, i.e., engaging in lobbying or lobbying activities. It eliminates volunteers from the definition of lobbyists, but does not establish a monetary threshold for qualification. We will be asking the Rules Committee to provide additional direction as to whether there should be a monetary threshold and, if so, how high that threshold should be. Please refer to the discussion of policy issues later in this report.

Under the provisions of the ordinance, the registrations of lobbyists would terminate annually on January 5 of the following calendar year and be renewed on or before January 15.

Registration requirements include identifying information about the lobbyist, disclosure of clients, and the proposed legislation the lobbyist is employed to support or oppose.

Registration Fees

The ordinance establishes registration fees for lobbyists. Proposed fees are forty dollars (\$40) per lobbyist and fifteen dollars (\$15) per client. These fees are based on a cost recovery estimate of the staff time required to administer the ordinance.

Quarterly Reports

The ordinance requires any person who qualifies as a lobbyist to file quarterly disclosure reports. These reports include activity expenses for the quarter, the name of the city official benefitting from the expense, if any, and the client on whose behalf expenses were made. The ordinance requires the lobbyist to sign and verify the disclosure report under penalty of perjury.

Attorney Exemption

The proposed ordinance eliminates the broad exemption for attorneys contained in the existing Municipal Advocates Ordinance. It regulates attorneys when they are acting as lobbyists.

Late Filing Penalties

The ordinance establishes late filing penalties of \$25 per day for each day a report is late, up to a maximum of \$500.

A summary of the key provisions of the proposed ordinance is provided as Attachment A and a chart comparing the existing and proposed ordinance is provided as Attachment B.

II. POLICY ISSUES

Following extensive consideration, several items included in the earlier draft have been deleted from the proposed ordinance and are listed here as policy issues for discussion by the Rules Committee. These items include: a) Volunteer lobbyists with a contacts threshold; b) A monetary threshold; and c) Grassroots Lobbyists. Each of these is discussed below.

Volunteer Lobbyists

The existing Municipal Advocates Ordinance includes volunteers as lobbyists. As part of amending the ordinance, we reviewed California's lobbying laws, as well as the lobbying ordinances of several cities. Most of these laws attempt to regulate "professional lobbying" activities and, therefore, do not include unpaid lobbying activity. Volunteers were included in the earlier draft, along with a contacts threshold, which would have to be met before a person would have to register as a lobbyist. In the feedback we received, there was a concern that citizens have a fundamental right to petition their government without having to register as lobbyists. There was also a concern that including volunteers would make the ordinance overly broad and would discourage individuals from meeting with their Council members or other city personnel. Additionally, the inclusion of a contacts threshold would make the ordinance extremely difficult to administer. For these reasons we do not recommend inclusion of volunteer lobbyists in a new ordinance.

Monetary Threshold

The draft ordinance is written so that anyone who is paid any amount of money to lobby, other than reimbursement for reasonable travel expenses, would be required to

register as a lobbyist. With a monetary threshold, an individual would be required to register only if he or she received, or became entitled to receive, compensation of [\$250] [\$500] [\$1,000] [\$2,000] [another monetary amount] or more during a calendar quarter for the purpose of influencing legislative action. The threshold could be set at whatever level seems appropriate for the City.

Having no monetary threshold would simplify the administration of the lobbying ordinance. It would also mean that the President or CEO of a large company—who meets once with Council members in order to encourage them to support a particular contract—would be required to register as a lobbyist since he or she would be receiving compensation for this activity.

Because there is no threshold in the proposed ordinance, we have added an exemption for persons whose only activity is “to make contacts in the ordinary course of furnishing goods and services to the City in its role as a consumer of such goods and services.” Without this exemption, vendors meeting with city staff would be required to register as lobbyists under the proposed ordinance. Should the Council decide to adopt a threshold for registration, this exemption could be deleted.

The other lobbying laws we reviewed attempt to regulate “professional lobbyists,” and therefore, have monetary thresholds. At the state level there is a \$2,000 per quarter threshold. Los Angeles has a threshold of \$4,000 per quarter and San Francisco has a threshold of \$1,000 per month. We believe that the threshold issue is a policy question to be determined by the Rules Committee and the City Council. Therefore, we are seeking your direction on this issue.

Public Relations Filers/Grassroots Lobbyists

In our review of state law and other cities’ lobbying ordinances, we found that several had reporting requirements for individuals and groups who make payments or incur expenditures for public relations, advertising or similar activities, for the purpose of soliciting or urging others to communicate with city officials in order to influence legislative action. In Los Angeles these groups are required to file activity reports during those quarters in which they incur such expenditures. In San Francisco they are required to register and file quarterly. In Los Angeles, these include groups that spend \$5,000 or more in a calendar quarter and are called “Major Filers.” In San Francisco they include anyone who spends \$1,000 or more in a calendar quarter for such activities and are called “Grassroots Lobbyists.”

A provision for “Grassroots Lobbyists” was included in the earlier draft, with a \$1,000 per quarter threshold. This provision caused some confusion because it would have included anyone who conducts a public relations effort—not necessarily a grassroots organization or group. If the Council directs us to include such a provision in the lobbying ordinance, a better name might be “Public Relations Filers.” Including such a

provision in San Diego's lobbying ordinance would recognize an emerging trend in government advocacy, that of soliciting third parties to support or oppose legislative action.

CONCLUSION

In conclusion, the Clerk and the Municipal Lobbying Ordinance Task Force propose the attached re-drafted lobbying ordinance to update and clarify San Diego's lobbying laws. We also request your direction on the policy issues presented in this report.

I look forward to your consideration of these proposals and, as always, should you have any questions, I would be pleased to respond.

A handwritten signature in black ink, appearing to read 'Charles G. Abdelnour', with a long horizontal line extending to the right.

Charles G. Abdelnour
City Clerk

CGA:JL
Attachments

KEY PROVISIONS OF THE PROPOSED LOBBYING ORDINANCE

Definitions

In the proposed ordinance, Lobbying or Lobbying Activities is defined as direct communication with a city official for the purpose of attempting to influence any legislative action. The definition also includes related activities such as monitoring legislative action the lobbyist is seeking to influence, preparing testimony, attending hearings, and conferring with clients. Direct Communication includes talking to or corresponding with a city official, but does not include appearing as a speaker or providing written statements which become part of the record of a public hearing. Legislative Action includes the drafting, introduction, consideration, modification, adoption or defeat of any ordinance, resolution, amendment, report or nomination by the Mayor, City Council, any Council committee, City Board or any City Official acting in his or her official capacity.

Registration

The ordinance creates registration requirements for Lobbyists. These are individuals paid to engage in lobbying or lobbying activities with any city official for the purpose of influencing legislative action on behalf of any other person. They must register with the City Clerk within ten (10) days of qualifying as a lobbyist.

Under the provisions of the ordinance, the registrations of lobbyists terminate annually on January 5 of the following calendar year and can be renewed on or before January 15.

Registration requirements include identifying information about the lobbyist, disclosure of clients, and the proposed legislation the lobbyist is employed to support or oppose.

Registration Fees

The ordinance establishes registration fees for lobbyists. Proposed fees are forty dollars (\$40) per lobbyist and fifteen dollars (\$15) per client.

Quarterly Reports

The ordinance requires any person who qualifies as a lobbyist to file quarterly disclosure reports. These reports include disclosure of clients represented during the quarter, items of legislative action for which the lobbyist represented the client, activity expenses for the quarter, the name of the city official benefitting from the expense, if any, and the client on whose behalf expenses were made.

Late Filing Penalties

The ordinance establishes late filing penalties of \$25 per day for each day a report is late, up to a maximum of \$500.

**A COMPARISON OF KEY PROVISIONS OF
THE CURRENT MUNICIPAL ADVOCACY ORDINANCE AND
THE PROPOSED LOBBYING ORDINANCE**

DEFINITIONS:

Current Law

Advocacy is defined as any nonpublic contact with a municipal official for the purpose of attempting to influence action taken on any municipal decision.

A **Municipal Advocate** is anyone who engages for pay or for any consideration for the purpose of advocacy, or who is a member of a volunteer public interest group or organization, who, without pay, engages in advocacy.

Advocacy does not include contacts consisting solely of speaking at public meetings before the Council, where disclosure becomes a public record.

Municipal decision means any discretionary action taken or which may be taken by any municipal official on any matter within the scope and course of his employment, position or official jurisdiction.

Proposed Ordinance

Lobbying or Lobbying Activities is defined as direct communication with a City official for the purpose of attempting to influence any **Legislative Action**. It includes related activities such as monitoring legislative action, preparing testimony, attending hearings and conferring with clients.

A **Lobbyist** is an individual who is paid to engage in lobbying or lobbying activities with any city official for the purpose of influencing legislative action on behalf of any other person.

No change.

Legislative Action includes the drafting, introduction, modification, adoption or defeat of any ordinance, resolution, amendment, report, or nomination by the Mayor, City Council, any Council committee, City Board, or any City Official acting in his or her official capacity.

REGISTRATION:Current Law

Municipal Advocates must register with the City Clerk within ten (10) calendar days of engaging in advocacy.

Registration remains in full force until such time as the advocate notifies the City Clerk of the termination of such status.

There are no registration fees under the current ordinance.

Proposed Ordinance

No change.

Registrations terminate annually on January 5 and may be renewed on or before January 15.

The ordinance establishes a registration fee for lobbyists. Proposed fees are forty dollars (\$40) per lobbyist plus fifteen dollars (\$15) per client.

REGISTRATION DISCLOSURE:Current Law

Registration requirements include identifying information about the municipal advocate, disclosure of persons directing advocacy activities and real parties in interest being represented, and the nature and category of municipal decisions the advocate was employed or volunteered to support or oppose.

No time frame is provided for amendments to registration.

Proposed Ordinance

Registration requirements include identifying information about the lobbyist, disclosure of clients and the proposed legislative action the lobbyist is employed to support or oppose.

Lobbyists are required to file amendments to their registration forms within ten (10) calendar days of any change in the information required to be set forth on the registration form.

QUARTERLY REPORTS:

Current Law

Under current law the quarterly filing requirement is not mandatory.

Quarterly reports consist of disclosure of decisions the advocate is or was employed or had volunteered to support or oppose; the name and identifying information of each person who made contributions of \$100 or more; expenditures of \$25 or more made on any one occasion or expenditures on behalf of the principal which total \$100 or more in any quarter.

Current law does not provide for amending quarterly reports.

ATTORNEY EXEMPTION:

Current Law

Current law provides a broad exemption for "Members of the State Bar of California acting on behalf of a client or clients in an attorney-client relationship while performing a duty or service, which duty or service can be performed lawfully only by an attorney licensed to practice law in California...."

Proposed Ordinance

The ordinance requires any person who qualifies as a lobbyist to file quarterly reports.

Quarterly reports include a list of all clients represented during the quarter and the items of legislative action for which the lobbyist represented the client; itemized activity expenses and a total of all activity expenses for the quarter, along with the names of the clients on whose behalf the expenses were made, and the name of the City official, if any, benefitting from the expense.

The proposed ordinance allows for amending quarterly reports.

Proposed Ordinance

The proposed ordinance provides no exemption for attorneys. It regulates attorneys when they are acting as lobbyists.

LATE FILING PENALTIES:Current Law

There are no late filing penalties under current law.

Proposed Ordinance

The ordinance establishes late filing penalties of \$25 per day for each day a report is late, up to a maximum of \$500.

TABLE OF CONTENTS
MUNICIPAL LOBBYING ORDINANCE

SECTION		Page
27.4001	Purpose	1
27.4002	Definitions	1
	Activity Expense	
	Agent	
	City	
	City Board	
	City Official	
	Client	
	Committee	
	Compensated Services	
	Compensation	
	Day	
	Direct Communication	
	Gift	
	Influencing Legislative Action	
	In-house Lobbyist	
	Legislative Action	
	Lobbying or Lobbying Activities	
	Lobbyist	
	Payment	
	Person	
	Public Hearing	
	Public Official	
	Travel Expense	
27.4003	Exceptions	5
27.4004	Activity Expense on Behalf of Client	5
27.4005	Registration and Reporting Required	5
27.4006	Contents of Lobbyist's Registration	6
27.4007	Lobbyist and Client Registration Fees	7
27.4008	Amendments to Registration Form	7
27.4009	Duration of Status	7
27.4010	Quarterly Disclosure Report Required	8
27.4011	Filing Deadline for Quarterly Disclosure Report	8

TABLE OF CONTENTS (Cont'd)

SECTION		Page
27.4012	Contents of Lobbyist's Quarterly Disclosure Report	8
27.4013	Amendments to Registration Form or Quarterly Disclosure Report	9
27.4014	Forms to be Provided by the Clerk	9
27.4015	Verification of Registration Form and Quarterly Disclosure Report	9
27.4016	Termination of Lobbyist Status	9
27.4017	Other Obligations of a Lobbyist	10
27.4018	Employment of City Employees by Lobbyist	11
27.4019	Employment of Unregistered Persons	11
27.4020	Powers and Duties of the City Clerk	11
27.4021	Inspection of Forms and Reports	12
27.4022	Audits	12
27.4023	Violations, Penalties and Defenses	13

SAN DIEGO MUNICIPAL CODE

ARTICLE 7

Elections, Campaign Finance and Lobbying

DIVISION 40

Municipal Lobbying

27.4001 Purpose

The purpose of this division is to provide registration and disclosure requirements whereby Persons acting as Municipal Lobbyists are required to register with the City. The purpose of registration is to require Lobbyists to provide sufficient information so that complete disclosure of principals and Clients they represent may become public information for the benefit of the City Council and the general public. This division is not intended to discourage or prohibit the exercise of constitutional rights.

27.4002 Definitions

The first letter of each term defined in this division is capitalized. Unless the context otherwise indicates, the defined terms have the meanings set forth below.

"Activity Expense" means any Payment made to, or directly benefitting, any City Official made by a Lobbyist. An Activity Expense benefits a City Official if it is made to, or on behalf of, the City Official, the City Official's spouse, dependent child, or other guest of the City Official. "Activity Expenses" include gifts, meals, honoraria, consulting fees, salaries and any other form of Compensation, but do not include campaign contributions.

"Agent" means a Person who acts on behalf of any other Person. "Agent" includes a Person who acts on behalf of a Lobbyist.

"City" means the City of San Diego or any organizational subdivision, office, or board of the City.

"City Board" includes any board, commission, standing or ad hoc committee, subcommittee, or task force of the City.

"City Official" means

(a) any elected or appointed City officeholder, including any City officeholder elected but not yet sworn in, City Board member, or employee; and

(b) any consultants of this City who are required to file a statement of economic interest pursuant to any conflict of interest code adopted by the City Council.

"Client" means

(a) a Person who compensates a Lobbyist for the purpose of Influencing Legislative Action; or,

(b) a Person on whose behalf a Lobbyist makes attempts at Influencing Legislative Action.

"Committee" has the same meaning as that set forth in California Government Code Section 82013.

"Compensated Services" means Lobbying Activities for which Compensation was paid during a reporting period or for which the Lobbyist became entitled to Compensation during that period.

"Compensation" means any economic consideration for services rendered, either via employment or contract, other than reimbursement for Travel Expenses.

"Day" means calendar day unless otherwise specified.

"Direct Communication"

(a) means:

- (1) talking to (either by telephone or in person), or
- (2) corresponding with (either in writing or by electronic transmission or facsimile machine), or
- (3) answering questions or inquiries from any City Official, either personally or through an Agent who acts under the Lobbyist's direct supervision, control or direction.

"Direct Communication"

(b) does not include appearing as a speaker at, or providing written statements which become part of the record of,

a Public Hearing, so long as the Lobbyist identifies the Client(s) represented;

"Gift" has the same meaning as that set forth in California Government Code Section 82028.

"Influencing Legislative Action" means affecting or attempting to affect any action on one or more items of Legislative Action by any method, including promoting, supporting, opposing or seeking to modify or delay such action. "Influencing Legislative Action" also includes providing information, statistics, analyses or studies.

"In-House Lobbyist" means a salaried employee who engages in Lobbying or Lobbying Activities solely on behalf of his or her employer.

"Legislative Action" means the drafting, introduction, consideration, modification, adoption or defeat of any ordinance, resolution, amendment, report or nomination by the Mayor, City Council, any Council Committee, City Board, or any City Official acting in his or her official capacity. "Legislative Action" does not include any of the following:

(a) any request for advice or for an interpretation of laws, regulations, City approvals or policies, or a direct response to an enforcement proceeding with the City;

(b) any ministerial action;

(c) any action relating to the establishment, amendment, administration, implementation or interpretation of a collective bargaining agreement or memorandum of understanding between the City and a recognized employee organization, or a proceeding before the Civil Service Commission; or

(d) any management decisions as to the working conditions of represented employees that clearly relate to the terms of collective bargaining agreements or memoranda of understanding pursuant to (c) above.

"Lobbying" or "Lobbying Activities" means Direct Communication with a City Official for the purpose of Influencing Legislative Action and includes related activities such as:

(a) monitoring Legislative Action the Lobbyist is seeking to influence;

(b) preparing testimony and presentations;

(c) attending hearings on a Legislative Action the Lobbyist is seeking to influence;

(d) conferring with the Lobbyist's Client;

(e) communicating by phone or mail with the Lobbyist's employer;

(f) waiting to meet with City Officials.

These and similar activities are deemed to be an integral part of Influencing Legislative Action.

"Lobbyist" means an individual who receives or becomes entitled to receive any Compensation during any calendar quarter to engage in Lobbying or Lobbying Activities with any City Official for the purpose of Influencing Legislative Action on behalf of any other Person. Lobbyist includes In-House Lobbyists as well as Persons under contract to engage in Lobbying or Lobbying Activities.

"Payment" has the same meaning as that set forth in California Government Code Section 82044.

"Person" means any individual, business entity, trust, corporation, association, committee, or any other organization or group of Persons acting in concert.

"Public Hearing" means any open proceeding where a public record is kept of who spoke and who was represented by a Lobbyist testifying at that hearing.

"Public Official" means an elected or appointed officer or employee or officially designated representative, whether compensated or not, of the United States or any of its agencies, the State of California, the City, any political subdivision of the state, including counties, districts, or any public corporation, agency or commission.

"Travel Expenses" means reasonable expenses for transportation plus a reasonable sum for food and lodging.

27.4003 Exceptions

The following Persons are exempt from the requirements of this division:

(a) a Public Official acting in his or her official capacity and any government employee acting within the scope of his or her employment;

(b) any newspaper or other regularly published periodical, radio or television station (including any individual who owns, publishes or is employed by any such newspaper, periodical, radio or television station) that in the ordinary course of business publishes news items, editorials or other comments or paid advertisements which directly or indirectly urge action upon Legislative Action, if such newspaper, periodical, radio or television station or individual engages in no other activities to Influence Legislative Action.

(c) Any Person whose only activity is:

- (1) to submit a bid on a competitively bid contract; or
- (2) to submit a written response to a request for proposal; or
- (3) to participate in an oral interview for a request for proposals or qualifications; or
- (4) to negotiate the terms of a written agreement with any City agency, once that Person is selected pursuant to that bid or request for proposals or qualifications.
- (5) to make contacts in the ordinary course of furnishing goods or services to the City in its role as a consumer of such goods or services.

27.4004 Activity Expense on Behalf of Client

An Activity Expense shall be considered to be made on behalf of a Client if the Client requires, authorizes, or reimburses the expense.

27.4005 Registration and Reporting Required

(a) A Lobbyist is required to register with the City Clerk no later than ten (10) Days after qualifying as a Lobbyist.

(b) Upon registration, a Lobbyist shall report the information required by Section 27.4012 for the preceding calendar quarter.

(c) Nothing in this division precludes a Person from registering as a Lobbyist prior to qualifying.

27.4006 Contents of Lobbyist's Registration

Lobbyists shall file with the City Clerk a registration form which contains the following:

(a) the full name, address, and phone number of the Lobbyist;

(b) the name, address, phone number, and Tax Identification Number of the Lobbyist's employer, if any;

(c) a specific description of the Lobbyist's employer, if any, in sufficient detail to inform the reader of the nature and purpose of the employer's business;

(d) for each Client for which the Lobbyist provides Lobbying Activities:

(1) the Client's name, business or residence address and business or residence telephone number;

(2) a specific description of each Client in sufficient detail to inform the reader of the nature and purpose of the Client's business or organization;

(3) the Legislative Action(s) for which the Lobbyist was retained to represent the Client, or a description of the type of Legislative Action for which the Lobbyist was retained to represent the Client;

(e) a statement that the Lobbyist has reviewed and understands the requirements of San Diego Municipal Code Sections 27.4001 - 27.4023 governing municipal lobbying;

(f) any other information required by the City Clerk consistent with the purposes and provisions of this division; and

(g) the registration fee pursuant to 27.4006.

27.4007 Lobbyist and Client Registration Fees

(a) Every Lobbyist shall pay:

- (1) an annual Lobbyist registration fee of forty dollars (\$40); plus
- (2) an annual Client registration fee of fifteen dollars (\$15) for each Client identified on the registration form.

(b) Every Lobbyist who initially registers during the last quarter of a calendar year (October through December) shall pay a prorated Lobbyist registration fee of twenty dollars (\$20), plus a prorated Client registration Fee of ten dollars (\$10).

(c) When a Client is acquired subsequent to the initial registration, the Lobbyist shall pay a fifteen dollar (\$15) Client registration fee when filing the information required by Section 27.4008.

(d) For the purpose of determining Client registration fees, a trade association or business organization qualified under Internal Revenue Code 501(c)(6) shall consider its members as one Client.

(e) For the purpose of determining Client registration fees, a single Client registration fee shall be paid for a Client with more than one In-House Lobbyist.

(f) Fees may be paid or reimbursed by the Person, if any, who employs the Lobbyist.

27.4008 Amendments to Registration Form

Lobbyists shall file amendments to their registration form within ten (10) Days of any change in information required on the registration form set forth in Section 27.4007.

27.4009 Duration of Status

A Person who registers as a Lobbyist retains that status through January 5 of the following calendar year unless and until that Person terminates that status in accordance with Section 27.4017. A Person who continues to qualify as a Lobbyist on

January 5 of the year after initial registration shall renew that registration on or before January 15 of each year.

27.4010 Quarterly Disclosure Report Required

(a) Lobbyists shall file quarterly disclosure reports for every calendar quarter during which they retain their status as a Lobbyist.

(b) A Person other than an individual that employs more than one In-House Lobbyist may file a single quarterly disclosure report, provided that such report includes all information required by Section 27.4012 for each In-House Lobbyist it employs. This report shall be signed by the President or Chief Executive Officer, or by any of the In-House Lobbyists included in the report. Such reporting shall be deemed to be substantial compliance with the requirements of this division.

27.4011 Filing Deadline for Quarterly Disclosure Report

Lobbyists shall file their quarterly disclosure reports with the City Clerk no later than the last Day of the months of April, July, October and January. Lobbyists shall disclose all required information for the calendar quarter immediately prior to the month in which the report is required to be filed.

27.4012 Contents of Lobbyist's Quarterly Disclosure Report

A Lobbyist's quarterly disclosure reports shall contain the following information:

(a) the Lobbyist's name, business address and business telephone number;

(b) the name, address and phone number of the Lobbyist's employer, if any;

(c) the name, address and telephone number of each Client represented by the Lobbyist during the reporting period; and a description of each Legislative Action for which the Lobbyist represented the Client during the reporting period;

(d) the date, amount and description of each Activity Expense made by the Lobbyist during the reporting period;

- (e) the name and title of the City Official, if any, benefitting from each Activity Expense;
- (f) the name and address of the payee of each Activity Expense;
- (g) the name of the vendor if different from that of the payee of the Activity Expense;
- (h) the name of the Client, if any, on whose behalf the Activity Expense was made;
- (i) the total amount of all Activity Expenses made by the Lobbyist during the reporting period; and
- (j) any other information required by the City Clerk consistent with the purposes and provisions of this division.

27.4013 Amendments to Registration Form or Quarterly Disclosure Report

Registration forms and quarterly disclosure reports filed pursuant to this division may be amended by the filer at any time. Amending an incorrect or incomplete form or report may be considered as evidence of good faith.

27.4014 Forms to be Provided by the Clerk

Lobbyists shall file registration forms and quarterly disclosure reports on forms provided by the City Clerk.

27.4015 Verification of Registration Form and Quarterly Disclosure Report

Lobbyists shall sign and verify the registration form and quarterly disclosure report required by this division under penalty of perjury.

27.4016 Termination of Lobbyist Status

A Person who ceases being a Lobbyist shall notify the City Clerk of this status upon the quarterly disclosure report form provided by the City Clerk. Upon terminating, the Lobbyist shall report the information required in Section 27.4012 which remains unreported since the last quarterly disclosure report.

27.4017 Other Obligations of a Lobbyist

Any Person who is required to register as a Lobbyist under the provisions of this division shall:

(a) abide by the gift limits for City Officials set forth in Government Code Section 89503, or Conflict of Interest Code adopted by the City Council;

(b) abstain from doing any act with the purpose or intent of placing a City Official under personal obligation to the Lobbyist, or to the Lobbyist's employer or Client;

(c) correct, in writing, any misinformation given to a City Official, specifying the nature of the misinformation;

(d) abstain from any attempt to create a fictitious appearance of public favor or disfavor regarding any proposed Legislative Action;

(e) retain for a period of five years all books, papers and documents necessary to substantiate the quarterly disclosure reports required to be made under this division;

(f) not deceive or attempt to deceive a City Official as to any material fact pertinent to any pending or proposed Legislative Action;

(g) not cause or influence the introduction of any ordinance, resolution, appeal, petition, nomination or amendment thereto for the purpose of thereafter being employed to secure its granting, denial, confirmation, rejection, passage or defeat;

(h) not cause any communication to be sent to a City Official in the name of any fictitious Person or in the name of any real Person, except with the consent of such real Person;

(i) not state or imply that through any Lobbying or Lobbying Activities, he or she can control or obtain the vote or favorable action of a City Official on any Legislative Action; and

(j) not attempt to evade the obligations in this Section through indirect efforts or through the use of Agents, associates or employees.

27.4018 Employment of City Employees by Lobbyist

If any Lobbyist registered or required to be registered under Section 27.4005:

- (a) employs, in any capacity whatsoever, or
- (b) requests, recommends, or causes the Lobbyist's employer to employ any Person known to be an officer or employee of the City, the Lobbyist shall file a written statement with the City Clerk within ten (10) Days after such employment. This statement shall set forth the name of the Person employed, the date first employed by the Lobbyist or the Lobbyist's employer, and that Person's position, title, and department in the City.

27.4019 Employment of Unregistered Persons

It is unlawful for any Person to pay any other Person for Lobbying, if that Person has reason to believe that the other Person has been required to register under this division and has not done so.

27.4020 Powers and Duties of the City Clerk

(a) The City Clerk shall issue a notice of registration requirements to any Person whom the Mayor, City Council, City Official, or any other Person has reason to believe should be registered under this division, upon the receipt of a written request.

(b) Any Person who in good faith and on reasonable grounds believes that he or she is not required to comply with the provisions of Section 27.4005 by reason of being exempt under any provision of this division shall not be deemed to have violated the provisions of Section 27.4005 if, within ten (10) Days after the City Clerk has sent specific written notice, the Person either complies with the requirements of this division, or furnishes satisfactory evidence to the Clerk that he or she is exempt from registration.

(c) As soon as practicable after the close of each quarter, the City Clerk shall complete a summary of the information contained in registration forms and quarterly disclosure reports

required to be filed under the provisions of this division. This summary shall be forwarded to the Mayor and City Council.

(d) The City Clerk shall preserve all registration forms and quarterly disclosure reports required to be filed under this division for a period of six (6) years from the date of filing. These registration forms and quarterly disclosure reports shall constitute part of the public records of the Clerk's office, and shall be open to public inspection. Copies shall be made available by the City Clerk upon request and payment of any lawful copy charges.

(e) The City Clerk shall have the power to adopt all reasonable and necessary procedures to implement this division.

27.4021 Inspection of Forms and Reports

(a) The City Clerk shall inspect, or cause to be inspected, each registration form and quarterly disclosure report filed under this division within ten (10) Days after the filing deadline. The City Clerk shall notify a Person to file a registration form or quarterly disclosure report under this division if it appears that the Person has failed to file as required by law or that the registration form or quarterly disclosure report filed by the Person does not conform to law.

(b) Any Person notified to file an original or amended registration form or quarterly disclosure report shall file the form or report within ten (10) Days after receiving notice from the City Clerk.

27.4022 Audits

The City shall have the authority to conduct audits of registration forms and quarterly disclosure reports filed pursuant to this division. Audits may be conducted on a random basis or when City staff has reason to believe that a registration form or quarterly disclosure report may be inaccurate or has not been filed.

27.4023 Violations, Penalties and Defenses

(a) Violations of this division may be prosecuted as misdemeanors subject to the fines and custody provided in San Diego Municipal Code section 12.0201. The City may also seek injunctive relief and civil penalties in the Superior Court pursuant to Municipal Code section 12.0202 or pursue any administrative remedy set forth in Chapter I of this Code.

(b) In addition to any other penalty or remedy available, if any Person fails to file any registration form or quarterly disclosure report required by this division after any deadline imposed by this division, that Person shall be liable to the City of San Diego in the amount of twenty-five dollars (\$25) per Day after the deadline until the report is filed, up to a maximum amount of \$500. Provisions of this Division need not be enforced by the City Clerk if it is determined that the late filing was not willful and that enforcement of the penalty would not further the purposes of this division. Provisions of this Division shall not be waived if a registration form or quarterly disclosure report is not filed within ten (10) Days after the City Clerk has mailed specific written notice to the Person of the filing requirement.

K:\Election\Lobbyist\Draft9